

REMARKS

In the present Office Action, dated June 20, 2007, claims 1-27 are pending in the application, and currently stand rejected. The applicants would like to thank the examiner for conducting a telephonic interview on August 14, 2007 during which the remarks below were discussed. During the interview, the examiner stated that the applicants' proposed amendments appear to overcome the outstanding rejections. Should the examiner have any further suggestions for expediting the prosecution of the presently pending claims, the undersigned respectfully asks the examiner contact him at 206-332-1384.

The examiner maintains that claims 1-27 are not statutory under 35 USC 101 because the claims only resolve a mathematical algorithm and fail to produce a real world result. Applicants have amended the claims to more clearly recite their applicability to compilers, and in particular to associating data types with operators. For example, claim 1 now recites "*In a compiler, a method of determining a target type*" (emphasis added) and "associating said target type with said undefined operator." Support for the amendments can be found at least in paragraphs 0029 and 0030. Thus, applicants respectfully submit that claims 1-27 are allowable as reciting a real world result.

The examiner further contends that claims 19-27 are not statutory under 35 USC 101 because the claims read as a "program per se." Applicants respectfully disagree and submit that there is no legal basis for a "program per se" rejection. Moreover, applicants respectfully direct the examiner to *WMS Gaming Inc. v. International Game Technology*, 184 F.3d 1339 (Fed. Cir. 1999). The *WMS Gaming* Court reasoned that "[a] general purpose computer, or microprocessor, programmed to carry out an algorithm creates 'a new machine, because a general purpose computer in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software.'" *Id.* (quoting *In re Alappat*, 33 F.3d 1526, 1545 (Fed. Cir. 1994)). Applicants have amended claims 19-27 to further recite a microprocessor executing instructions to carry out the recited steps.

The examiner also rejects claims 10-16 because the reference to "computer-readable storage medium" includes any medium type. Applicants respectfully direct the examiner at least to

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paragraph 0034 of the application wherein it states "computer readable media may comprise computer storage media and communication media." Computer storage media is further defined as follows:

includes both volatile and nonvolatile, removable and non-removable media implemented in any method or technology for storage of information such as computer readable instructions, data structures, program modules or other data. Computer storage media includes, but is not limited to, RAM, ROM, EEPROM, flash memory or other memory technology, CDROM, digital versatile disks (DVD) or other optical disk storage, magnetic cassettes, magnetic tape, magnetic disk storage or other magnetic storage devices, or any other medium which can be used to store the desired information and which can be accessed by computer 110.

Accordingly, applicants respectfully submit that "computer-readable storage medium" refers to tangible media such as volatile and non-volatile memory as suggested by the examiner and excludes wireless media.

CONCLUSION

The applicants believe that the present amendment is responsive to each of the points raised by the examiner in the Office Action, and submit that claims 1-27 of the application are in condition for allowance. Favorable consideration and passage to issue of the application at the examiner's earliest convenience is earnestly solicited.

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